

**LEE MOK LAN (f) v. REGISTRAR
OF TITLES, SELANGOR**

[O. C. J. (Wilson J.) February 14, 1955]

[K. L. — Originating Motion No. 8 of 1954]

Specific Relief (Malay States) Ordinance, 1950, s. 44 — Mandamus — Land Code (Cap. 138), ss. 75, 84 and 237(i) and (iii) — Refusal to register charge — No acknowledgment in form of charge — Contracts (Malay States) Ordinance, 1950 — Notice out of time.

The applicant had made an application to the Registrar of Titles for the registration of a charge of a certain land. The Registrar rejected the charge on the ground that there was no acknowledgment in the form of the charge to whom the loan was made under the Contracts Ordinance.

Under s. 237(i) of the Land Code any party dissatisfied with any decision of a registering authority may, within 30 days from the time when the decision was pronounced, by notice in a special form require the registering authority to certify in writing the grounds of his decision. The Registrar refused to certify the grounds of his decision as no notice was given in the special form nor within the period of 30 days.

Held: (1) though under s. 44 of the Specific Relief (Malay States) Ordinance a Judge might make an order requiring any specific act to be done by any person holding a public office provided that, *inter alia*, the applicant had no other specific and adequate legal remedy, under ss. 75 and 84 of the Land Code a charge which had been presented and rejected might be presented again with a fresh fee. If registration was still refused the applicant could comply with s. 237(i) of the Land Code and make an application to the Court under s. 237(iii) of the same Code; (2) assuming that the Registrar was wrong in law in refusing registration by reason of a provision of the Contracts Ordinance, this did not affect his jurisdiction to act in the matter.

MANDAMUS.

Morris Edgar for the applicant.

C. M. Sheridan (Federal Counsel) for the respondent.

Cur. Adv. Vult.

Wilson J. : — This is an originating motion for an order in the nature of a mandamus under the Specific Relief Ordinance, 1950, calling upon the Registrar of Titles, Selangor, to hear and deliver according to law an application by the applicant for the registration of a charge dated the 10th August, 1954. Particulars of the charge are set out in the originating motion. It is supported by the affidavit of Mr. Morris Edgar. To this affidavit the Registrar of Titles has replied in another affidavit and to that affidavit there is another affidavit by Mr. Morris Edgar in reply. I have no reason to doubt the accuracy of the facts stated in these affidavits.

On the 10th August, 1954, the applicant executed a charge of a certain land and the charge was presented at the office of the Registrar of Titles, Selangor, on the 11th August, 1954 for registration. The Registrar of Titles rejected the charge for registration on the

ground that there was no acknowledgment in the form of the charge to whom the loan was made under the Contracts Ordinance, 1950.

On the 22nd September, 1954, Messrs. Bannon & Bailey gave notice for requiring the written grounds of the Registrar of Titles, Selangor.

Section 237(i) of the Land Code provides that any party dissatisfied with any decision of the proper registering authority may, within thirty days from the time when the decision was pronounced, by notice in a special form require the proper registering authority to certify in writing the grounds of his decision. No notice in the special form prescribed was given to the Registrar of Titles within the period of thirty days and for this reason the Registrar refused to certify the grounds of his decision.

I have been referred to Section 44 of the Specific Relief (Malay States) Ordinance, 1950, which provides that a Judge may make an order requiring any specific act to be done by any person holding a public office provided that, *inter alia*, the applicant has no other specific and adequate legal remedy. Under Section 84 of the Land Code when any instrument has been rejected it shall not be registered until it has been presented again and a fresh fee paid. In my opinion, when a charge has been presented and rejected, there is nothing in the law to prevent the applicant from presenting the charge again for registration in accordance with the provisions of Sections 75 and 84 of the Land Code as many times as he likes. That appears to me to be the proper remedy of the applicant and if registration is still refused he can then, if he complies with Section 237(i) of the Land Code, make an application to the Court under Section 237(iii) of the Land Code and the Court can thereupon deal with the matter.

It has been represented to me that the Registrar of Titles had no authority to refuse registration by reason of a provision of the Contracts Ordinance and that, therefore, if he acts outside the provisions of the Land Code, he was acting without jurisdiction, and the applicant is entitled to make the application which is now before me. In my opinion, even assuming that the Registrar of Titles acted outside the provisions of the Land Code, this does not affect the matter. If he gave a decision which was wrong in law, it does not affect his jurisdiction any more than my jurisdiction is affected if my decision in this matter is wrong in law.

I find that this originating motion was misconceived and it must be dismissed with costs.

Motion dismissed.

Solicitors: Bannon & Bailey.